

REMARKS

A telephone interview between Examiner Patel and Dennis Smid (one of the applicants' undersigned attorneys) was held on November 26, 2008. The applicants and Mr. Smid wish to thank the Examiner for his time and consideration for such discussion.

Claims 2 and 7 have been canceled. Claims 1, 3-5, 8, and 9, amended claim 6, and new claim 10 are in this application.

Claims 1, 4-6 and 9 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. PGPUB 2002/0150123 (Ro).

As discussed during the November 26 discussion, independent claim 1 recites in part the following:

"multiplexing means for multiplexing the encoded data stored in the storage means and transmitting the multiplexed data to a predetermined receiving apparatus through a network; and

monitoring means for monitoring a state of the network, and for generating a stop command and supplying the stop command to the multiplexing means when the state of the network is undesirable,

. . . .

in which the multiplexing means stops multiplexing in response to the stop command, and" (Emphasis added.)

As discussed during the November 26 discussion, it is respectfully submitted that Ro as applied by the Examiner does not appear to disclose the above-identified features of claim 1. For example, Ro as applied by the Examiner does not appear to

disclose "monitoring means . . . for generating a stop command and supplying the stop command to the multiplexing means when the state of the network is undesirable" which may cause the multiplexing means to stop multiplexing as in claim 1. An example of such multiplexing means and monitoring means is provided in Fig. 2 (in particular, elements 15 and 16 thereof) of the present application.

In explaining the above 102 rejection with regard to claim 1, the Examiner appears to assert that element 220 of Fig. 2 and paragraphs 46-47 on page 4 of Ro teach the monitoring means of claim 1. In response, and as discussed during the November 26 discussion, such portions of Ro do not appear to disclose "generating a stop command and supplying the stop command to the multiplexing means when the state of the network is undesirable" which may cause the multiplexing means to stop multiplexing as in claim 1. Although such portions of Ro disclose a multiplexor 214, such portions do not appear to disclose "generating a stop command and supplying the stop command to" the multiplexor 214 "when the state of the network is undesirable." Instead, as indicated in paragraph 0048 and as discussed during the November 26 discussion, it appears that module 220 determines whether to adjust a system stream and module 222 makes adjustments if needed (by decreasing the size of the packets or by removing packets from the stream). Such module 220 does not appear to supply a stop command to the multiplexor 214.

Accordingly, it is respectfully submitted that claim 1 is distinguishable from Ro as applied by the Examiner.

For reasons similar to those previously described with regard to claim 1, it is also respectfully submitted that amended independent claim 6 is also distinguishable from Ro as applied by the Examiner.

Claims 4, 5, and 9 are dependent from one of

independent claims 1 and 6. Accordingly, it is also respectfully submitted that dependent claims 4, 5, and 9 are distinguishable from Ro as applied by the Examiner for at least the reasons previously described.

Claims 3 and 8 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ro in view of U.S. Patent No. 7,187,844 (Terao et al.).

Claims 3 and 8 are dependent from one of independent claims 1 and 6. Accordingly, it is also respectfully submitted that dependent claims 3 and 8 are distinguishable from Ro as applied by the Examiner for at least the reasons previously described. The Examiner does not appear to rely on Terao to overcome the above-described deficiencies of Ro. Accordingly, it is respectfully submitted that claims 3 and 8 are distinguishable from the applied combination of Ro and Terao.

As discussed during the November 26 discussion, new independent claim 10 has been added herein.

As also discussed during the November 26 discussion, a Request for Continued Examination (RCE) accompanies this amendment.

As it is believed that all of the rejections set forth in the Official Action have been overcome, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicants' attorney at (908) 654-5000 in order to overcome any additional rejections and/or objections which the Examiner might have.

Application No.: 10/537,570

Docket No.: SONYJP 3.3-1033

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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